

May 26, 2011

Austin Schlick, General Counsel
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: WT Docket No. 06-150
Service Rules for the 698-746, 747-762 and 777-792 MHz Band
OMB Approval Needed for 700 MHz Performance Status Reports

Dear Mr. Schlick:

CTIA – The Wireless Association® (“CTIA”) submits this letter seeking confirmation that the requirement for certain 700 MHz licensees to submit performance status reports is not currently in effect and that any such filings are not required until the collection of that information has been approved by the Office of Management and Budget (“OMB”) in accordance with the Paperwork Reduction Act (“PRA”). Absent confirmation, there is the potential for confusion concerning the due date for these reports.¹

As you know, in the 700 MHz *Second Report and Order*, the Commission established an interim reporting requirement in Section 27.14 of its rules obligating certain 700 MHz licensees to submit information concerning the status of their efforts to meet performance requirements.² The *Second Report and Order* became effective October 23, 2007, “except for the amendments to §§ 27.14, 27.15, 27.50, and 90.176 which contain information collection requirements that have not been approved by the Office of Management and Budget (OMB).”³ The Commission indicated that it “will publish a document in the Federal Register announcing the effective date.”⁴ It

¹ See *Public Notice*, “700 MHz Performance Status Reports Due June 13, 2011,” DA 11-563 (WTB Mar. 28, 2011) (“In this Public Notice, the Wireless Telecommunications Bureau (Bureau) reminds certain 700 MHz licensees to file interim performance status reports beginning May 14 and no later than June 13, 2011.”) (“*Public Notice*”).

² *Service Rules for the 698-746, 747-762 and 777-792 MHz Band, Second Report and Order*, 22 FCC Rcd 15289, 15352 ¶ 165 (2007); 47 C.F.R. § 27.14(l). The following 700 MHz licensees must file performance status reports: licensees holding economic area (EA) authorizations for Block A in the 698-704 MHz and 728-734 MHz bands, cellular market area (CMA) authorizations for Block B in the 704-710 MHz and 734-740 MHz bands, or EA authorizations for Block E in the 722-728 MHz band; and licensees holding regional economic area grouping (REAG) authorizations for Block C in the 746-757 MHz and 776-787 MHz bands. *Public Notice* “700 MHz Performance Status Reports Due June 13, 2011,” at 2.

³ 72 Fed. Reg. 48814, 48841 (Aug. 24, 2007).

⁴ *Id.*

is CTIA's understanding that neither OMB approval nor Federal Register announcement of the effective date has occurred.

Consistent with the PRA, a licensee is "not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection unless it displays a currently valid OMB control number."⁵ Accordingly, although the relevant rule calls for these status reports to be filed by June 13, 2011,⁶ CTIA requests confirmation that licensees are not required to submit the status reports until the collection has been approved by OMB and is announced in the Federal Register.

Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Christopher Guttman-McCabe
Christopher Guttman-McCabe
Vice President, Regulatory Affairs
CTIA – The Wireless Association®

⁵ E.g., FCC Form 601, Application for Wireless Telecommunications Bureau Radio Service Authorization, Main Form Instructions at 1 (Oct. 2010), *available at* <http://www.fcc.gov/Forms/Form601/601.pdf>; *see* 44 U.S.C. §§ 3507(a), 3512; 5 C.F.R. §§ 1302.5(b), 1320.6; *see also Saco River Cellular v. FCC*, 133 F.3d 25 (D.C. Cir. 1998).

⁶ 47 C.F.R. § 27.14(l); *see also Public Notice*, "700 MHz Performance Status Reports Due June 13, 2011," *supra* note 1.